Annex A

Title 25 Environmental Protection
Part I. Department of Environmental Protection
Subpart C. Protection of Natural Resources
Article II. Water Resources
Chapter 105. Dam Safety and Water Management

Subchapter A. GENERAL PROVISIONS

PERMIT APPLICATIONS

- § 105.13[Permit applications] Regulated activities information and fees.
- (a) [Application for permits under this chapter shall be submitted to the Department, in writing, upon forms provided by the Department. Applicants are encouraged to request a meeting with the Department prior to submission of their applications.
- (b) An application for a permit, registration for a general permit, request for permit amendment, major or minor letter of amendment or authorization, major dam design revision, environmental assessments, permit transfer or annual dam registration under this chapter[, except applications submitted by Federal, State, county or municipal agencies or a municipal authority for a dam, water obstruction or encroachment] shall be accompanied by a check [payable to "Commonwealth of Pennsylvania"] FOR THE APPLICABLE FEES [in accordance with the following schedule] except for submissions by [the following:
 - (1) Federal or State agencies related to a dam
 - (2) <u>| Federal, State, county or municipal agencies or a municipal authority. [related to a water obstruction or encroachment.]</u>
- (b) Fees collected by the Dam Safety Program and Water Obstruction and Encroachment Program, INCLUDING DELEGATIONS TO LOCAL AGENCIES, will be deposited into a restricted revenue account known as the Clean Water Fund and utilized to offset the operating costs to implement respective programs.

(c) The fees are as follows:

(1) Dams <u>based on size and hazard potential category as defined in § 105.91 (relating to</u> classification of dams and reservoirs).

[Class A \$3000

(Based on Size Classification as defined in § 105.91)

Class B \$2500

Class C \$1500]

(i) Dam permit application fees for new dam construction.

Hazard Potential Category Size Category	<u>1</u>	<u>2</u>	<u>3</u>	4
<u>A</u>	<u>\$26,500</u>	<u>\$26,500</u>	<u>\$25,500</u>	<u>\$23,500</u>
<u>B</u>	<u>\$19,000</u>	<u>\$19,000</u>	<u>\$18,500</u>	<u>\$17,000</u>
<u>C</u>	<u>\$10,500</u>	<u>\$10,500</u>	<u>\$10,000</u>	<u>\$8,000</u>

- (A) <u>Initial fees are based upon the size and hazard potential category of the final operating stage of the dam.</u>
- (B) Staged construction requires an additional 90% of the appropriate fee for each additional stage beyond the initial stage of work proposed under this permit application, including any closure stage.

(ii) Dam permit application fees for modification of existing dams.

Hazard Potential Category Size Category	<u>1</u>	2	<u>3</u>	4
<u>A</u>	<u>\$18,500</u>	<u>\$18,500</u>	<u>\$18,500</u>	<u>\$18,000</u>
<u>B</u>	<u>\$12,000</u>	<u>\$12,000</u>	<u>\$12,000</u>	<u>\$11,500</u>
<u>C</u>	<u>\$7,500</u>	<u>\$7,500</u>	<u>\$7,500</u>	<u>\$7,500</u>

- (A) <u>Initial fees are based upon the size and hazard potential category of the final</u> operating stage of the dam.
- (B) <u>Staged construction requires an additional 85% of the appropriate fee for each additional stage beyond the initial stage of work proposed under this</u>

permit application, including any closure stage.

(iii) Dam permit application fees for operation and maintenance of existing dams.

Hazard Potential Category Size Category	<u>1</u>	2	<u>3</u>	4
<u>A</u>	<u>\$12,500</u>	<u>\$12,500</u>	<u>\$12,000</u>	<u>\$10,000</u>
<u>B</u>	<u>\$10,000</u>	<u>\$10,000</u>	<u>\$9,500</u>	<u>\$8,500</u>
<u>C</u>	<u>\$7,000</u>	<u>\$7,000</u>	<u>\$6,500</u>	<u>\$6,000</u>

(iv) Letter of amendment or authorization review fees.

Size Category	<u>Major Project</u>	Minor Project
<u>A</u>	<u>\$14,700</u>	<u>\$1,300</u>
<u>B</u>	<u>\$8,700</u>	<u>\$1,000</u>
<u>C</u>	<u>\$4,400</u>	<u>\$650</u>

- (A) The estimated total construction cost of the project shall be provided to the Department with the submission of the letter of amendment or authorization request.
- (B) A major project is a dam rehabilitation project qualifying for a Letter of Amendment for Dams or a Letter of Authorization for Dams as defined in § 105.1 (relating to definitions) whose total construction costs equals or exceeds \$250,000. If, after completion of the project, the total construction costs do not exceed \$250,000, the Department will refund the difference between major and minor project review fees upon approval of the completion certification as required under § 105.108 (relating to completion, certification and project costs).
- (C) A minor project is a dam rehabilitation project qualifying for a Letter of

Amendment for Dams or a Letter of Authorization for Dams as defined in § 105.1 whose total construction costs are less than \$250,000. If, after completion of the project, the total construction costs exceed \$250,000, the difference in review fees between major and minor projects must be submitted to the Department with the completion certification as required in § 105.108.

(v) Major dam design revision review fees based on major dam design revision as defined in § 105.1.

Size Category	<u>Fee</u>
<u>A</u>	<u>\$4,700</u>
<u>B</u>	<u>\$3,200</u>
<u>C</u>	<u>\$1,700</u>

(vi) Environmental assessment review fees for non-jurisdictional dams, letters of amendment or letters of authorization.

Size Category	<u>Fee</u>
<u>A</u>	<u>\$1,400</u>
<u>B</u>	<u>\$1,000</u>
<u>C</u>	<u>\$900</u>

(vii) Transfer of dam permit as required in § 105.25 (relating to transfer of permits).

Type of Dam Permit Transfer	<u>Fee</u>
No Proof of Financial Responsibility Required	<u>\$550</u>
Proof of Financial Responsibility Required	<u>\$300</u>

(viii) Annual dam registration fees as required in § 105.131a (relating to annual dam registration).

Hazard Potential Category Size Category	1	2	3	4
<u>A</u>	<u>\$1,500</u>	<u>\$1,500</u>	<u>\$800</u>	<u>\$0</u>
<u>B</u>	<u>\$1,500</u>	<u>\$1,500</u>	<u>\$800</u>	<u>\$0</u>
<u>C</u>	<u>\$1,500</u>	<u>\$1,500</u>	<u>\$800</u>	<u>\$0</u>

- (A) Annual registration fees are due by July 1 of each year.
- (B) If the annual registration fee is not received by July 1, all dams regulated by the Department are subject to a temporary suspension of the dam permit, if applicable, and the owner or operator may be required to drain the reservoir at a rate not to exceed 1 foot per day.
- (C) If the annual registration fee is not received by July 1, dams regulated by the Department qualifying for waiver of permit provisions in § 105.12. (relating to waiver of permit requirements) may be subject to a temporary draining of the reservoir at a rate not to exceed 1 foot per day.
- (D) If annual registration fees are not remitted as specified, interest will accrue on the entire amount from the original date payment was due, at a rate of 12% per annum until payment is remitted.
- (2) Water obstructions and encroachments.

[Stream enclosures	\$350
Channel changes	\$300
Commercial dredging	\$300
Peat extraction	\$750
Fills, levees, floodwalls	\$350
Bridges and other water obstructions and encroachments	\$200
Small projects	\$100]

[
Program	Fee Title	<u>Fee</u>	
Obstructions and			
Encroachments	Administrative Filing Fee (Application fees)*	\$1,750	
Obstructions and	Permanent Disturbance (waterways, floodways/plains		
Encroachments	and wetlands per tenth acre, minimum 0.1 acre)*	<u>\$800</u>	
	Temporary Disturbance (waterways,		
Obstructions and	floodways/plains and wetlands per tenth acre,		
Encroachments	minimum 0.1 acre)*	<u>\$400</u>	
Obstructions and			
Encroachments	Environmental Assessment for Waived Activities	<u>\$500</u>	
Obstructions and	General Permits (fees based upon specific general		
Encroachments	permit activity see section below for listing)	See below	
Obstructions and			
Encroachments	Major Amendment*	<u>\$500</u>	
Obstructions and			
Encroachments	Minor Amendment	<u>\$250</u>	
Obstructions and			
Encroachments	Transfer with SLLA	<u>\$200</u>	
Obstructions and			
Encroachments	Transfer without SLLA	<u>\$100</u>	
	General Permits		
BDWW-GP-1	Fish Habitat Enhancement Structures	<u>\$50</u>	
BDWW-GP-2	Small Docks and Boat Launching Ramps	\$175	
DDWW CD 2	Bank Rehabilitation, Bank Protection and Gravel Bar		
BDWW-GP-3	Removal	<u>\$250</u>	
BDWM-GP-4	Intake and Outfall Structures	\$200	
BDWM-GP-5	Utility Line Stream Crossings	\$250	
BDWM-GP-6	Agricultural Crossings and Ramps	\$50	
BDWM-GP-7	Minor Road Crossings	\$35 0	
BDWM-GP-8	Temporary Road Crossings	\$175	
BDWM-GP-9	Agricultural Activities	<u>\$50</u>	
BDWW-GP-10	Abandoned Mine Reclamation	\$500	
	Maintenance, Testing, Repair, Rehabilitation, or		
BWM-GP-11	Replacement of Water Obstructions and		
	Encroachments*	<u>\$750</u>	
BWOP-GP-15	Private Residential Construction in Wetlands*	\$750	

^{*} The Disturbance Review Fee is calculated by adding all permanent and temporary impacts to waterways, floodways/plains and bodies of water including wetlands to the next highest tenth acre and multiplied by the respective fee for either permanent impacts or temporary impacts and then this amount is added to the other applicable fee.

	FEE TITLE / TYPE	FEE
WATER OB	STRUCTION AND ENCROACHMENT PERMIT APPLICATION	FEES
JOINT APPLICATION	ADMINISTRATIVE FILING FEE (*PLUS APPLICABLE DISTURBANCE REVIEW FEES)	\$1,750
GENERAL PER	MIT REGISTRAT	ION FEES
GP-1	FISH HABITAT ENHANCEMENT STRUCTURES	\$50
GP-2	SMALL DOCKS AND BOAT LAUNCHING RAMPS	\$175
GP-3	BANK REHABILITATION, BANK PROTECTION AND GRAVEL BAR REMOVAL	\$250
GP-4	INTAKE AND OUTFALL STRUCTURES	\$200
GP-5	UTILITY LINE STREAM CROSSINGS	\$250
GP-6	AGRICULTURAL CROSSINGS AND RAMPS	\$50
GP-7	MINOR ROAD CROSSINGS	\$350
GP-8	TEMPORARY ROAD CROSSINGS	\$175
GP-9	AGRICULTURAL ACTIVITIES	\$50
GP-10	ABANDONED MINE RECLAMATION	\$500
GP-11*	MAINTENANCE, TESTING, REPAIR, REHABILITATION, OR REPLACEMENT OF WATER OBSTRUCTIONS AND ENCROACHMENTS	\$750
GP-15*	PRIVATE RESIDENTIAL CONSTRUCTION IN WETLANDS	\$750
*DISTURBANCI	,	
FEES PERMANENT	OR OTHER FEES WHERE APP WATERWAYS, FLOODWAYS/FLOODPLAINS AND	LICABLE
DISTURBANCE	WETLANDS PER TENTH ACRE, MINIMUM 0.1 ACRE	\$800
TEMPORARY DISTURBANCE	WATERWAYS, FLOODWAYS/FLOODPLAINS AND WETLANDS PER TENTH ACRE, MINIMUM 0.1 ACRE	\$400
OTHER FEES NOT ADDED TO INITIAL APPLICATION OR REGISTRATION FEES		
	IRONMENTAL ASSESSMENT FOR WAIVED ACTIVITIES 5.12(A)(11) AND §105.12(A)(16) PER §105.15(D))	\$500
MAJOR AMENDMENT TO WATER OBSTRUCTION AND ENCROACHMENT PERMIT*		\$500
MINOR AMENDMENT TO WATER OBSTRUCTION AND ENCROACHMENT PERMIT		\$250
TRANSFER OF PERMIT WITH SURMERCED LANDS LICENSE		\$200
	NSFER OF PERMIT WITHOUT SLLA	\$100

- (i) SMALL PROJECTS REQUIRE A JOINT APPLICATION FOR A WATER OBSTRUCTION AND ENCROACHMENT PERMIT AND THEREFORE WILL FOLLOW THE SAME FEE REQUIREMENTS.
- (ii) ADDITIONAL GENERAL PERMIT REGISTRATION(S) REQUIREMENTS:
 - (A) GENERAL PERMIT REGISTRATION FOR GP-11 AND GP-15 WILL ALSO REQUIRE DISTURBANCE REVIEW FEES WHERE APPLICABLE.
 - (B) CONSERVATION DISTRICTS MAY CHARGE ADDITIONAL REVIEW FEES IN ACCORDANCE WITH SECTION 9(13) OF THE CONSERVATION DISTRICT LAW (3 P.S. § 857(13)).
 - (C) REGISTRATION FEES FOR COVERAGE UNDER A GENERAL PERMIT ISSUED UNDER SUBCHAPTER L OF THIS CHAPTER, NOT OTHERWISE SPECIFIED IN THIS SECTION, WILL BE ESTABLISHED IN THE GENERAL PERMIT. THE APPLICABILITY OF THE DISTURBANCE REVIEW FEES WILL ALSO BE ESTABLISHED IN THE GENERAL PERMIT.
- (iii) DISTURBANCE REVIEW FEES ARE CALCULATED BY INDIVIDUALLY ADDING ALL OF THE PERMANENT AND TEMPORARY IMPACTS TO WATERWAYS, FLOODWAYS, FLOODPLAINS AND BODIES OF WATER INCLUDING WETLANDS TO THE NEXT HIGHEST TENTH ACRE AND MULTIPLYING THE PERMANENT AND TEMPORARY IMPACTS BY THE RESPECTIVE FEES AND THEN THESE AMOUNTS ARE ADDED TO THE OTHER APPLICABLE FEES.
 - (A) THE DISTURBANCE REVIEW FEES ARE ADDED TO THE JOINT APPLICATION ADMINISTRATIVE FILING FEE, APPLICABLE GENERAL PERMIT REGISTRATION FEES, AND MAJOR AMENDMENTS TO WATER OBSTRUCTION AND ENCROACHMENT PERMITS.
 - (B) IF A PERMIT APPLICANT IS SUBJECT TO PAYMENT OF ROYALTIES TO THE COMMONWEALTH UNDER 58 PA. CODE § 51.92 (RELATING TO ROYALTY RATES), THE DISTURBANCE REVIEW FEES WILL NOT BE REQUIRED FOR THE AREA OF DISTURBANCE SUBJECT TO THE ROYALTY PAYMENT.
- (iv) ENVIRONMENTAL ASSESSMENT FOR WAIVED ACTIVITIES FEE APPLIES TO USE OF THE WAIVERS AT §105.12(A)(11) AND §105.12(A)(16). THE REQUIREMENT FOR THE ENVIRONMENTAL ASSESSMENT FOR THESE WAIVERS IS PER §105.15(D).

- (v) A MINOR AMENDMENT OF AN EXISTING WATER OBSTRUCTION AND ENCROACHMENT PERMIT, PERMIT AUTHORIZATION OR WATER QUALITY CERTIFICATE BEFORE ITS EXPIRATION IS AN AMENDMENT THAT DOES NOT REQUIRE AN EXTENSIVE REVIEW AND EVALUATION AND INCLUDES THE FOLLOWING:
 - (A) <u>CHANGES THAT DO NOT SUBSTANTIALLY ALTER PERMIT</u>
 <u>CONDITIONS, INCREASE THE AMOUNT OF SURFACE WATER</u>
 <u>IMPACTS, INCREASE THE SIZE OF THE OPERATION, OR</u>
 <u>REDUCE THE CAPACITY OF THE FACILITY TO PROTECT</u>
 <u>HUMAN HEALTH, SAFETY, OR THE ENVIRONMENT.</u>
 - (B) REQUESTS FOR TIME EXTENSIONS
 - (C) <u>AQUATIC RESOURCE MITIGATION CREDIT TRANSFERS FROM AN APPROVED MITIGATION BANK.</u>
- (vi) A MAJOR AMENDMENT OF AN EXISTING WATER OBSTRUCTION AND ENCROACHMENT PERMIT, PERMIT AUTHORIZATION OR WATER QUALITY CERTIFICATE BEFORE ITS EXPIRATION IS ANY AMENDMENT THAT IS NOT A MINOR AMENDMENT.
- [(e)] (d) A single application may be submitted or a single permit may be issued for multiple structures and activities which are part of a single project or facility or part of related projects and facilities, located in a single county, constructed, operated or maintained by the same persons. When a single application covers multiple structures or activities other than a single structure and related maintenance dredging, the application fee shall be the sum of fees in subsection [(b)] (c) for the applicable structures and activities. [Stream crossings] WATER OBSTRUCTIONS AND ENCROACHMENTS located within a single county [for the installation of a public service line] shall be treated as a single structure or activity but the application fee shall be the sum of fees for each [stream crossing] WATER OBSTRUCTION AND ENCROACHMENT.
- [(d)] (e) An application for **OR A REGISTRATION OF** a permit shall be accompanied by information, maps, plans, specifications, design analyses, test reports and other data specifically required by this chapter and additional information as required by the Department to determine compliance with this chapter.

(4) WHEN THE DEPARTMENT OR DELEGATED LOCAL AGENCY DETERMINES THAT AN APPLICATION OR REGISTRATION IS INCOMPLETE OR CONTAINS INSUFFICIENT INFORMATION TO DETERMINE COMPLIANCE WITH THIS CHAPTER, IT WILL NOTIFY THE APPLICANT IN WRITING. THE APPLICANT SHALL HAVE 60 DAYS TO PROVIDE THE INFORMATION NECESSARY TO COMPLETE THE APPLICATION OR REGISTRATION, OR THE DEPARTMENT OR

DELEGATED LOCAL AGENCY WILL CONSIDER THE APPLICATION TO BE WITHDRAWN BY THE APPLICANT. REQUESTS FOR A SPECIFIC EXTENSION MAY BE SOUGHT BY THE APPLICANT IN WRITING. THE APPLICANT WILL BE NOTIFIED IN WRITING WHEN AN APPLICATION OR REGISTRATION IS CONSIDERED WITHDRAWN. WHEN AN APPLICATION OR REGISTRATION IS CONSIDERED WITHDRAWN, THE DEPARTMENT OR LOCAL AGENCY WILL CLOSE THE APPLICATION FILE AND TAKE NO ACTION TO REVIEW THE FILE.

(5) IF THE APPLICATION HAS BEEN WITHDRAWN IN ACCORDANCE WITH SUBSECTION (E)(4), THE FEES ASSOCIATED WITH FILING THE APPLICATION WILL NOT BE REFUNDED.

[(e)] (f) A permit application for small projects located in streams or floodplains shall be accompanied by the following information. This permit application may not be used for projects located in wetlands. If upon review the Department determines that more information is required to determine whether a small project will have an insignificant impact on safety and protection of life, health, property or the environment, the Department may require the applicant to submit additional information and processing fees required by this chapter.

[(f)] (g) Except for small projects, an application for a permit under this chapter shall be accompanied by proof of an application for an Earth Disturbance Permit or an erosion and sedimentation control plan for activities in the stream and earthmoving activities. The plan must conform to requirements in Chapter 102 (relating to erosion and sediment control) and must include a copy of a letter from the conservation district in the county where the project is located indicating that the district has reviewed the erosion and sediment control plan of the applicant and considered it to be satisfactory, if applicable. Earthmoving activities, including small projects, shall be conducted pursuant to an earth disturbance plan.

[(g)] (h) An application shall be submitted by the person who owns or has primary responsibility for the proposed dam or reservoir, water obstruction or encroachment. If an application is submitted by a person with primary responsibility for the structure or activity, the owner of a dam or reservoir, water obstruction or encroachment will not thereby be relieved of legal duties or responsibilities for the structure or activity as imposed by the act or this chapter.

[(h)] (i) An application shall be signed by the owners of the dam or reservoir, water obstruction or encroachment, or the persons exercising primary responsibility for the dam or reservoir, water obstruction or encroachment. In the case of a partnership, one or more members of the partnership authorized to sign on behalf of the entire partnership shall sign the application. In the case of a corporation, it shall be signed by the president, vice president or other responsible official empowered to sign for the corporation. In the case of a political subdivision, it shall be signed by the chief officers of the political subdivision or other responsible official empowered

to sign for the political subdivision, with the seal affixed and attested by the clerk.

[(i)] (j) Plans, specifications and reports accompanying applications for any category of dams, or for bridges and other water obstructions or encroachments which would pose a threat to human life or substantial potential risk to property shall be affixed with the seal of a registered professional engineer and a certification, signed by the registered professional engineer, which shall read as follows:

- [(j)] (k) The Department may waive the specific information requirements of this section in writing, in the record of decision, if upon review of the permit application, the Department finds that specific information is not necessary to review the application.
- (l) The Department will review the adequacy of the fees established in this section at least once every 3 years and provide a written report to the EQB. The report will identify any disparity between the amount of program income generated by the fees and the costs to administer these programs, and it will contain recommendations to [increase]-ADJUST fees to eliminate the disparity, including recommendations for regulatory amendments [to increase program fees].

SUBMERGED LANDS OF THE COMMONWEALTH—LICENSES AND ANNUAL CHARGES

§ 105.35. Charges for use and occupation of submerged lands of this Commonwealth.

- (a) Except as provided in subsections (b) and (c), the following charges apply to the granting of an easement, right-of-way, license or lease to occupy submerged lands of this Commonwealth issued under section 15 of the act (32 P. S. § 693.15) and § 105.32 (relating to projects—proper purpose):
- (1) For commercial utility and other dams, water obstructions and encroachments except as listed in subsection (c), annual license charges:
 - (i) For areas occupied by facilities, [\$50] \$150 per tenth of an acre.
 - (ii) For barge fleeting and mooring areas, [\$10] \$30 per tenth of an acre.
 - (iii) Minimum annual charge, [\$250] \$750.

(b) Licenses for public service lines crossing or occupying submerged lands of this Commonwealth, issued under section 15 of the act or section 514 of The Administrative Code of 1929 (71 P. S. § 194) are subject to the following schedule of annual charges:

Length of Crossings Charges (in feet) (in dollars) Less than 500 [\$250] 750

500 to 999	[500] <u>1,500</u>
1000 to 1499	[1000] <u>3,000</u>
1500 to 1999	[1500] <u>4,500</u>
2000 to 2499	[2000] <u>6,000</u>
2500 to 2999	[2500] <u>7,500</u>
3000 to 3499	[3000] <u>9,000</u>
3500 to 3999	[3500] <u>10,500</u>
4000 to 4499	[4000] <u>12,000</u>
4500 to 4999	[4500] <u>13,500</u>
5000 and over	[5000] <u>15,000</u>

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Subchapter B. DAMS AND RESERVOIRS

OPERATION, MAINTENANCE AND EMERGENCIES

§ 105.131a. Annual dam registration.

This chapter establishes annual dam registration fees according to 105.13 (c)(viii) (relating to regulated activities – information and fees) for the Department's administration of the act.

Subchapter L. GENERAL PERMITS

§ 105.444. Contents of general permits.

Each general permit issued by the Department will include, but not be limited to, the following contents:

* * * * *

- (5) A specification of registration requirements if any, established under § 105.447 (relating to registration requirements) and registration or general permit fees established under § 105.13 (relating to regulated activities information and fees).
- § 105.448. Determination of applicability of a general permit.

* * * * *

(b) A request for a determination of the applicability of a general permit may not be considered a permit application for purposes of this chapter [, and no application fee will be charged].

(c) A project requiring registration under § 105.447 (relating to registration requirements) may be charged an application fee as set forth in [in the general permit governing each eategory of dam, water obstruction or encroachment.] SECTION 105.13 (RELATING TO REGULATED ACTIVITIES – INFORMATION AND FEES).